

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

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UNITED STATES OF AMERICA :
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-vs- : Case No. 1:19-cr-57
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SANG THANH HUYNH, :
Defendant. :
 :
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MOTIONS HEARING

October 4, 2019

Before: Liam O'Grady, USDC Judge

APPEARANCES:

Carina A. Cuellar, Counsel for the United States

Marvin D. Miller, Counsel for the Defendant

The Defendant, Sang T. Huynh, in person

INDEXOPENING ARGUMENTS BY:

MR. MILLER	4
MS. CUELLAR	8
MR. MILLER	10

WITNESSEXAMINATIONPAGE

JOSEPH HOANG

DIRECT	11
CROSS	16
REDIRECT	18
RECROSS	19

CLOSING ARGUMENTS BY:

MR. MILLER	19
MS. CUELLAR	24
MR. MILLER	25

COURT'S RULINGS

THE COURT	26
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1 THE CLERK: The Court calls case 1:19-cr-57, the
2 United States of America versus Sang Huynh for a motion
3 hearing.

4 May I have the appearances, please, first for the
5 Government.

6 MS. CUELLAR: Good morning, Your Honor. Carina
7 Cuellar on behalf the United States.

8 THE COURT: All right.

9 MR. MILLER: Good morning, Your Honor. Marvin Miller
10 for Mr. Huynh, who is in custody.

11 THE COURT: All right, Mr. Huynh is now present.
12 Mr. Miller, this is your motion, sir.

13 MR. MILLER: Yes.

14 THE COURT: Good morning.

15 MR. MILLER: Just for the record, I understand the
16 Court's fear of computers and stuff. We just object to not
17 being allowed to being able to bring in a computer this
18 morning.

19 THE COURT: Well, if you wanted to bring in a
20 computer, there is a form that you sign, and you have to get
21 the IT section to look at the computer --

22 MR. MILLER: I know, make sure it's not got a bomb in
23 it, and it's not going to broadcast to CBS. That's a new
24 policy that I didn't know came into existence. I was glad to
25 get a copy that you have to go through a magnetometer and have

1 your briefcase screened when you come in because I wasn't aware
2 of that either.

3 THE COURT: Okay, go on with your motion.

4 MR. MILLER: But whatever. This is a motion that
5 needs to be heard de novo, of course, because there is no
6 proper order in the magistrate's proceeding.

7 The statute says in 3142(i)(1), and as interpreted by
8 Salerno, which was Justice Rehnquist's decision on the statute
9 right after it came out, that the judicial officer must include
10 a written finding of fact and a written statement of reasons
11 for decisions to detain.

12 And I am not aware of any order that does that. I
13 don't know of any facts that were specifically found. I don't
14 know how the facts were then tied specifically to reasons. And
15 then all I know is that there was an order with a conclusion,
16 and that order is not sufficient.

17 In that regard, as Justice Rehnquist also said, and
18 this is the Salerno decision at page 751, that -- and at 750
19 and 751, that there is a full-blown adversary hearing, the
20 defendant has the right to cross-examine witnesses, and you do
21 all of that so that the judicial officer hearing the case can
22 make specific findings of fact. And we don't have that.

23 We have a Government's response that has inaccurate
24 facts and facts that were never presented to the magistrate
25 below either. And the magistrate, to the extent some of it was

1 presented, made no findings of fact.

2 If you look at page 2, I would ask that the whole
3 thing be stricken. They say that there was a friend who made
4 statements to an agent. That's news to me, I know nothing
5 about that in their third bullet point.

6 In the fourth bullet point they talk about a storage
7 facility. Of course, they left out two important facts. One
8 of which is the video shows he hasn't been in that facility for
9 well over a year to a year-and-a-half, and they didn't put that
10 in the facts.

11 And they also didn't put into the facts that there
12 were two other people that had full access to the facility.
13 And that wasn't raised below.

14 And there are Bank of America and all that and Naval
15 Credit Union on page 3, or conclusions, and according to
16 Justice Rehnquist, those conclusions would not suffice for a
17 probable cause determination. And he made it real clear in
18 Leon that you can't give a judge your conclusions. You have to
19 give a judge facts for probable cause even when the Rules of
20 Evidence don't apply and hearsay is fully admissible.

21 That the suspected drug rip-off, that's their
22 speculation, you can't put -- I'm an agent, let me make a
23 speculation, make a guess, and you take it as true. They can't
24 do that on their fourth bullet on 3.

25 Their bullet on 4 is a conclusion, therefore. They

1 have put in no evidence. There is no witnesses to him getting
2 any drugs at any time in the case where CI so-and-so says, I
3 was present and he received. Or CI so-and-so plus 2 says, I
4 was present and he distributed. There is none of that at all.

5 The Snapchat accounts, the videos and stuff like
6 that, remind me of an individual named -- what's his name? Lud
7 Foe and another one named Caprun who are -- what do you call
8 it, gangster rappers. Caprun has 36 million viewers and Foe
9 has 20 million viewers of videos that are almost identical to
10 the ones that they showed him, which is what we were going to
11 show you this morning, to show running around with what looks
12 like marijuana, money, guns, and all that stuff. And 20
13 million and 36 million viewers for a commercial operation and
14 him doing the same kind of thing, doesn't add anything one way
15 or the other to a bail determination.

16 And this new thing about the 2,000 deleted text
17 messages and their speculation about what they are, well, he
18 deleted messages; therefore, we will conclude in a presumption
19 of guilt that they are bad. That's no basis for that.

20 So the only evidence that you have that we agree
21 about is his criminal record, except there is a
22 misrepresentation in the criminal record. I object to the fact
23 that in this court, unlike in other courts, you can't keep the
24 Pretrial Services report so you can analyze it, take your time
25 and go over it with your client and make sure that it is

1 correct. But there are no failure to appear convictions that
2 I'm aware of. I am not saying he wasn't charged, because he
3 was, but there are no convictions.

4 So we have facts that were never considered below.
5 Facts that have not been subjected to cross-examination. Facts
6 that are speculation and guesswork. And that's not a basis,
7 according to Justice Rehnquist when he was first analyzing the
8 Act in the Salerno decisions at pages 750, '51 and '52, nor is
9 it consistent with the Act and the requirements under
10 subsection (i) which requires a specific finding of fact
11 followed by -- using those specifically found facts so we know
12 what they are -- specific reasons, a statement of reasons how
13 the facts support the reasons, and then a conclusion.

14 All we have is a conclusion. So that's no basis for
15 you to make any review of any magistrate judge's decision
16 because you don't have one. Or if you do, I've never seen it.

17 So I don't know how the Court wishes to proceed on
18 that part, but --

19 THE COURT: Well, he's been indicted on a ten-year
20 minimum mandatory offense.

21 MR. MILLER: That's correct.

22 THE COURT: There is a presumption that no conditions
23 of bond --

24 MR. MILLER: That's right.

25 THE COURT: -- are appropriate.

1 MR. MILLER: Right. Let me address that.

2 THE COURT: No, hold on first. Ms. Cuellar, do you
3 have the agent here?

4 MS. CUELLAR: I do, Your Honor, but I would like to
5 address a few things that Mr. Miller said to the Court.

6 THE COURT: Okay. All right.

7 MS. CUELLAR: As Your Honor is aware, there have been
8 two detention hearings held for the defendant, one in the
9 Central District of California, Los Angeles, and one here
10 before Magistrate Judge Nachmanoff. At that hearing a federal
11 agent did testify. He was subject to cross-examination by Mr.
12 Miller.

13 The only new piece of evidence that is included here
14 is bullet four on page 2 which references the recent search of
15 the facility in California. The reason why the agent didn't
16 testify to that is because it has happened since that bond
17 hearing.

18 The FBI, and indeed our office, received an anonymous
19 tip that the defendant had this storage facility in California,
20 that it contained guns and drugs. We established probable
21 cause and sought a search warrant in the Central District of
22 California.

23 Now, at that time, and it's something the agent can
24 testify to, there was an individual who was seeking to come to
25 the facility and to gain access to the facility. This is, of

1 course, after the defendant had been arrested and brought to
2 our district. There was a search conducted at the facility,
3 the results of which are described in that bullet. That is the
4 only new piece of information.

5 Also, Mr. Miller I think has misread the final bullet
6 point. What it says is the Cellebrite analysis of one of those
7 phones recovered over 2,000 messages. There is no speculation
8 that there were 2,000 messages deleted that may have contained
9 drug-related texts. The texts have been recovered. And based
10 on the review of those messages, they are clearly drug related.

11 I can address more of the facts, but I just think
12 before we call the agent, to be clear, Mr. Miller did subject
13 him to cross-examination.

14 And one of the bullets not put in here that I would
15 bring to the Court's attention is that the agent received
16 permission to bring in electronics before Magistrate Judge
17 Nachmanoff's hearing. And in that he played two, approximately
18 two minutes of a podcast recovered from the defendant's phone.
19 In that the defendant is speaking entirely, mostly swearing and
20 using racial epithets.

21 In that he describes the entire rise of the gangs of
22 which he is a part of. And in the final two minutes he
23 describes how he is going to gain revenge for his uncle's
24 murder, and that he holds grudges, and proceeds to talk about
25 if he sees those people, they're going to be in "his sights,"

1 which is clearly a reference to a firearm and sights, Your
2 Honor. That is something that the judge also heard and is not
3 referred to in this filing.

4 THE COURT: All right, thank you.

5 Mr. Miller, do you want to respond to that?

6 MR. MILLER: Yes. They only played part of the
7 podcast. Nothing about gang development. They talked about
8 his anger over his uncle being killed, which was in 2013.

9 And so, nobody has been -- he's not been engaged in
10 any violence with anyone that relates to that. And this is
11 2019, and it's October already.

12 So he was on a rant. Years ago you would rant with
13 your friends, you would rant in a bar. Today people rant with
14 a podcast. But the proof is in the pudding, and there has been
15 no action. So the rant is the rant.

16 THE COURT: Do you want to cross-examine the agent on
17 the seizures made of the storage facility?

18 MR. MILLER: Well, I would have liked to have had the
19 search warrant for that and --

20 THE COURT: You've already had -- he had a hearing in
21 California.

22 MR. MILLER: Right.

23 THE COURT: You were present, cross-examined the
24 agent before Judge Nachmanoff. Judge Nachmanoff in his order
25 of detention pending trial found that it was a ten-year minimum

1 mandatory, and that no conditions had been found that would
2 override that presumption. The defendant has not introduced
3 sufficient evidence to rebut the presumption. Detention is
4 ordered.

5 He adopted in his finding that the defendant argued
6 for bond. The Court accepted as factual the information
7 contained in the Pretrial Services report. A more detailed
8 description of the findings was stated in open court and is
9 available for transcription.

10 So Judge Nachmanoff did what was necessary in making
11 the findings that he did. I'm not going to revisit -- and
12 having -- your having had the opportunity to cross-examine the
13 agent once on all but the storage facility --

14 MR. MILLER: I could do that, briefly, if Your Honor
15 please.

16 THE COURT: Okay. Ms. Cuellar, call the agent and go
17 over the facility search.

18 MS. CUELLAR: Yes, Your Honor. At this time the
19 United States calls Special Agent Joseph Hoang.

20 THE COURT: All right. Good morning, sir. Please
21 come forward and be sworn.

22 NOTE: The witness is sworn.

23 JOSEPH HOANG, called by counsel for the United
24 States, first being duly sworn, testifies and states:

25 DIRECT EXAMINATION

1 BY MS. CUELLAR:

2 Q. Good morning. Can you state your full name for the
3 record.

4 A. Joseph Hoang.

5 Q. And can you spell your last name.

6 A. H-o-a-n-g.

7 Q. Where are you employed?

8 A. With the FBI.

9 Q. What is your position with the FBI?

10 A. I'm a Special agent with the FBI.

11 Q. And are you the lead case agent in the investigation of
12 the Reccless Tigers?

13 A. Yes, I am.

14 Q. And as part of that investigation, are you familiar with
15 an individual by the name of Sang Huynh?

16 A. Yes, I am.

17 Q. And how long have you investigated Mr. Sang Huynh?

18 A. Since 2013.

19 Q. And are you familiar with his appearance?

20 A. Yes, ma'am.

21 Q. And is he present in the courtroom today?

22 A. Yes, he is.

23 Q. Can you please identify him.

24 A. He is sitting at the table right here in the green
25 jumpsuit.

1 THE COURT: I'll note the identification of Mr.
2 Huynh.

3 Q. Now, recently in the investigation of Mr. Huynh, did the
4 FBI obtain a search warrant for a facility in California?

5 A. Yes, we did.

6 Q. Approximately when was that search warrant obtained?

7 A. Approximately two weeks ago.

8 Q. And where is that storage facility located?

9 A. In Garden Groove, California.

10 Q. And how did this storage facility come to the FBI's
11 attention?

12 A. We actually got two tips. One that came to the Threat
13 Intake, which was a phone call, an anonymous tip, and another
14 e-mail tip too.

15 Q. And what was the content of this tip?

16 A. The content said, there is a person by the name of Sang
17 Huynh that will have a bond hearing today at 2 o'clock. Do not
18 let him out. He has a storage facility in Garden Grove. It
19 gave that address and the unit number. He has guns and drugs
20 in there. If you let him go, he will clean it out and
21 disappear.

22 Q. And what did you do based upon this information?

23 A. We called the storage unit, found out there was a storage
24 unit under Mr. Huynh's name, and got a grand jury subpoena and
25 all that stuff, and then subsequently got a search warrant.

1 Q. And after the search warrant was obtained, did law
2 enforcement conduct a search?

3 A. Yes, they did.

4 Q. Were you present for that search?

5 A. No, I was not.

6 Q. Have you spoken to the agents who were present?

7 A. Yes, I have.

8 Q. And have you reviewed information that was obtained from
9 the search?

10 A. Yes.

11 Q. And what did law enforcement seize during the search?

12 A. An Uzi with a 30-round magazine. All types of ammo from
13 .222 rounds to 9mm. Some cocaine, or something that field
14 tested positive for cocaine. Approximately 50 to 100 pills of
15 Xanax. A money counter. A Reccless Tigers T-shirt. A
16 Strugless T-shirt. Three cell phones. Reccless Tigers key
17 chains and business cards.

18 Q. Were notebooks that appeared to be consistent with being
19 drug --

20 MR. MILLER: Objection to leading questions, Your
21 Honor.

22 THE COURT: Overruled.

23 BY MS. CUELLAR: (Continuing)

24 Q. Were notebooks seized during the search?

25 A. Yes, two.

1 Q. And have you physically reviewed those notebooks?

2 A. Yes, I have.

3 Q. And how long have you been investigating narcotics
4 offenses?

5 A. Since 2012.

6 Q. And during that time, have you reviewed other notebooks
7 seized during searches of drug dealers' residences?

8 A. Yes, I have.

9 Q. Now, based on your training and experience, what do these
10 notebooks appear to be?

11 A. Ledgers, owe sheets.

12 Q. And what are ledgers and owe sheets?

13 A. Basically an accounting of who owes what type of money and
14 how much.

15 Q. And in your review of these notebooks, do you recognize
16 any names?

17 A. Yes.

18 Q. And are any of these individuals also indicted in the same
19 indictment as the defendant?

20 A. Yes.

21 Q. Do you remember any of those names here today when you
22 testify?

23 A. Yes.

24 Q. And who are those names?

25 A. Teddy. Starter.

1 Q. And who is Teddy?

2 A. Teddy is Richard Pak.

3 Q. And who is Starter?

4 A. Starter is Mr. Hong, last name Hong.

5 Q. And they are both indicted in this case?

6 A. Correct.

7 Q. Now, during that search, was a mask also seized?

8 A. Correct.

9 Q. What significance, if any, is there of that mask?

10 A. We had a social media post with Mr. Huynh in the bathtub
11 wearing an anonymous mask holding guns. And behind him was
12 marijuana, cough syrup, stacks of money.

13 Q. And based on your review of the social media post and the
14 mask that was seized, is it the same mask?

15 A. It is exactly the same mask, yes.

16 MS. CUELLAR: No further questions, Your Honor.

17 THE COURT: All right. Cross-examination.

18 CROSS-EXAMINATION

19 BY MR. MILLER:

20 Q. You know that the storage facility had a lock that
21 required a key for entry, don't you?

22 A. Yes.

23 Q. And you know that no key for entry to that lock was found
24 in his personal property when he was arrested or at his house?

25 A. That's correct.

1 Q. And so, you don't know who has the keys and who would have
2 been able to access that facility and who else might have had
3 keys, do you?

4 A. That's correct.

5 Q. And the person that gave this information wasn't anybody
6 working for you that had a history that you knew anything
7 about, it was just an anonymous call, right?

8 A. That's correct.

9 Q. And so, it could have been somebody that knows he has a
10 storage facility, doesn't know anything else, and had a grudge
11 against him; isn't that right?

12 A. Correct.

13 Q. Okay. And you don't know who wrote the ledgers or when
14 they were written, do you?

15 A. No, I do not.

16 Q. And you don't know when the gun was put in there or who
17 put the gun in there, do you?

18 A. No, sir.

19 Q. And you don't know who put the safe in which it was found
20 in there, do you?

21 A. I do know that.

22 Q. Who put the safe in?

23 A. The storage manager, when we were speaking to the storage
24 manager, she recognized this individual. She said that she
25 thought it was a Korean boy band because five of them came with

1 a flatbed, and she vividly remembered them bringing in the
2 six-foot safe.

3 Q. All right. So there were five people that had access to
4 it on that day. And whether or not he used it or not is not
5 something that you know?

6 A. Not that I know.

7 Q. And you can't say that he has been there in the last
8 year-and-a-half?

9 A. Not that I know of.

10 MR. MILLER: All right. No other questions.

11 THE COURT: All right. Any redirect?

12 MS. CUELLAR: Briefly, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. CUELLAR:

15 Q. Now, during your investigation of the storage facility,
16 did any other person seek to obtain access to the facility when
17 law enforcement was there?

18 A. Yes.

19 Q. Can you describe that for the Court.

20 A. In September, after Mr. Huynh was arrested, a person
21 called the storage manager and tried to gain access. Went by
22 the nickname Memo or Mo, is what the manager could remember.
23 They wanted to pay the late fees for it and the asked the
24 manager to cut the lock. The manager wouldn't do that.

25 MS. CUELLAR: No further questions, Your Honor.

1 THE COURT: Okay. All right, thank you --

2 MR. MILLER: Just one brief follow-up. Just one.

3 THE COURT: Go ahead.

4 RECROSS-EXAMINATION

5 BY MR. MILLER:

6 Q. So it was somebody else who was paying the fees, from what
7 you understand from the manager?

8 THE COURT: No.

9 A. No.

10 THE COURT: He stated somebody offered to pay the
11 late fee.

12 Q. Okay. But you don't know who was paying the fees?

13 A. No, I do not.

14 MR. MILLER: All right. Sorry. Thank you.

15 THE COURT: All right. Thank you, sir, you may
16 resume your seat.

17 NOTE: The witness stood down.

18 THE COURT: Mr. Miller, did you want to call any
19 witnesses?

20 MR. MILLER: No, Your Honor.

21 THE COURT: Okay.

22 MR. MILLER: You have the letters that we filed,
23 which is new, we didn't have that before.

24 THE COURT: Right.

25 MR. MILLER: So dealing first with the statutory

1 issue. Originally when the drug statutes were being redone and
2 the Guidelines were coming out and all that --

3 THE COURT: I don't want to revisit the history of
4 the Bond Reform Act and --

5 MR. MILLER: It's not the Act. It's the statute
6 itself.

7 THE COURT: The statute. I don't want to revisit the
8 history of the statute.

9 MR. MILLER: All right.

10 THE COURT: I want you to tell me if you've got
11 evidence that would convince me that there are conditions of
12 release that are appropriate given the presumption and given
13 the facts that were elicited in the hearing before Judge
14 Nachmanoff, which I have every right to review and consider in
15 this new hearing.

16 Go ahead.

17 MR. MILLER: Right. For the record, I'm not trying
18 to argue with the Court. Judge Nachmanoff's order is
19 essentially conclusory as to what he found without making
20 specific fact findings and statements or reasons. And I just
21 want to make that clear, my position of that on the record. We
22 can agree to disagree as lawyers and judges sometimes do.

23 Now, insofar as my client is concerned, he has a base
24 of community support that was not available to Judge Nachmanoff
25 that is strong. And they are stable individuals.

1 He had then and he has now a place to live with his
2 brother Phillip who has nothing to do with anything to do with
3 this case and works at the car dealership, has been dealing
4 with car businesses for a long number of years.

5 He has no convictions on failures to appear. He is
6 not someone where there is any reliable information about him
7 ever having -- or there is no allegation about him making a
8 sale to somebody or receiving drugs from anybody.

9 His relationship that has been asserted regarding the
10 Reccless Tigers is, by itself, not a basis to say there are no
11 conditions of release. And that is the strongest evidence the
12 Government has, is that he is associated with the Reccless
13 Tigers. But he is not charged with that as an offense. It's a
14 drug case.

15 And there is a ledger that he didn't write. There is
16 no evidence that he did write it. Or when it was, or how old
17 it was, or who put it there, or what it means. Even if you
18 accept what it means, it's still not something that was his.
19 And there is a lock, and he didn't have the key. And it wasn't
20 found anywhere in any place associated with him despite the
21 searches for it.

22 So there does not need to be, as the case law says, a
23 guarantee. And you've got the Jackson case. And in Jackson I
24 think it might have been the Outlaws, not the Hells Angels
25 motorcycle gang. And the drug manufacturing was

1 methamphetamine. And Jackson was out under terms and
2 conditions, and he honored them.

3 In Shimorango the guy was on video in the days of
4 super radical anti-war stuff in the '70s about don't get
5 caught, don't have any connections, be ready to flee all the
6 time, and all kinds of things like that, and he was still
7 released and he honored his conditions.

8 So if he's under electronic home detention with GPS
9 and can't go anywhere except to his lawyer's office, or to
10 court, or things like that, living with a brother who is a
11 straight guy, and there is no question about that, in a case
12 where there are allegations about him and the podcast and
13 violence, but nothing happened.

14 So he's a guy that's been in bar fights. I've known
15 lawyers, when they get drunk, watch out, because they're nasty.
16 And when they're sober, you'd have no clue that that's the same
17 person if you hadn't seen them in college or when they were out
18 some place in certain situations. I have been to conferences,
19 as have we all, where somebody, one of our colleagues, the
20 night between the morning session and the next day session gets
21 blasted and goes a little wacko. But that doesn't mean they
22 are a risk of flight or going to harm anybody.

23 And there has been no harm against anyone where there
24 was a claim of this is what I'm going to do and I'm not going
25 to forget. That just hasn't happened. So that is not a fact.

1 And if he is going to be under electronic home
2 detention and he's going to be living with his brother, who is
3 willing to comply with what the Court wants, and he has a
4 community network that stands behind him that is not connected
5 to this case at all, then we're in a situation where we have
6 someone who can be released and be monitored and the community
7 is in a safe situation.

8 Because if he was really as dangerous as that was
9 portrayed, then something would have happened in the violence
10 action related to his uncle. And it didn't happen. It never
11 happened. And there is no allegation of it. Not even the
12 speculation of an allegation of it.

13 So all of those things combined and assembled
14 together establish that there is a reasonable basis -- because
15 the statute gives you open-ended carte blanche to do just about
16 anything to assure his appearance, and there is no danger to
17 the community.

18 And he can't prove to you that there is a guarantee,
19 but he can prove to you that the community supports him. He
20 can prove to you that he has a legitimate safe place to live.
21 He has somebody willing to give him a job in a nail salon in
22 Falls Church. And they are putting their business out there
23 because if he's working in the salon, it's not like you're
24 working in a back office, it's his face and his presence, they
25 are risking their business on it. And they are willing to do

1 that.

2 So if you take all of those things in combination,
3 you can't say that there are no conditions that wouldn't be
4 set.

5 THE COURT: All right, thank you.

6 Ms. Cuellar.

7 MS. CUELLAR: Your Honor, I don't know that much more
8 needs to be said in addition to our filing. There is a
9 rebuttable presumption in this case. Two courts have detained
10 the defendant. He has a criminal history. Four times he has
11 failed to appear. Whether convicted or not, he did not show up
12 on the dates of those appearances. He has continued to engage
13 in criminal conduct after convictions.

14 The people whose letters he has offered have known
15 him during the time period when he has been convicted and
16 committed crimes and when he has been a part of this
17 conspiracy.

18 It is not the case that his brother has no connection
19 at all to gang activity. His brother has been connected to
20 gang activity. His brother has also received from the
21 defendant \$25,000 in cash transfers --

22 MR. MILLER: Objection, Your Honor. That's not --

23 MS. CUELLAR: Well, it certainly was testified to at
24 the hearing before Judge Nachmanoff, that the defendant
25 transferred over \$800,000 of cash proceeds. He has no job,

1 Your Honor. And some of those proceeds went to his brother.

2 So when you consider the fact that the defendant in
3 the part of the podcast that was played in court avowed his
4 allegiance to the Asian Boyz, who are a violent gang in Los
5 Angeles, and to Tiger Side, which is a part of the Reccless
6 Tigers, it is one of the subordinate elements of the Reccless
7 Tigers, you consider his criminal history, you consider the
8 overwhelming evidence that has led to his charges in this
9 case -- Mr. Miller keeps saying it's speculation. The evidence
10 is alleged in the filing, and it was testified to at the
11 detention hearing. It was also presented to the grand jury,
12 and there is an indictment.

13 So there is at least probable cause at this point to
14 establish the defendant's guilt of the conduct, which is all
15 that is needed for a bond determination, Your Honor.

16 THE COURT: All right, thank you.

17 MR. MILLER: Your Honor, may I briefly?

18 THE COURT: Yes, briefly.

19 MR. MILLER: Yes. He had a vaping business. And
20 that is, as anyone one reads the newspaper these days knows,
21 highly profitable with --

22 THE COURT: Three months he had a business?

23 MR. MILLER: No, he had it for a couple years.

24 THE COURT: In California or here?

25 MR. MILLER: It was basically mail order. And he had

1 a shop here for a while, they closed the shop, and it was mail
2 order for a while, and then that closed down.

3 THE COURT: Okay.

4 MR. MILLER: So it's not like he was doing nothing.

5 And there are two different groups. There are the
6 Reccless Tigers, is the one with which they claim he is
7 associated, but the mere gang membership in and of itself is
8 not -- the mere fact that somebody is charged with not having
9 appeared in court does not mean that they violated a court
10 order. People in Maryland get notices sent by the court so
11 they know where to go. Fairfax doesn't do that. And other
12 Northern Virginia jurisdictions don't. This court would let
13 somebody know in writing.

14 So the fact that there were no findings that he
15 violated the rules is significant.

16 THE COURT: Okay, thank you.

17 This is not a close case. The Government has
18 demonstrated at the hearing before Judge Nachmanoff, and
19 through the Pretrial Services investigation, and now here today
20 with the additional evidence, that Mr. Huynh is heavily vested
21 in drug dealing and in gang activity, and dangerous gang
22 activity.

23 He has got a violent history. Multiple convictions
24 for felony drug sales, misdemeanor drug possession, assault on
25 a police officer, resisting arrest, carrying a knife, multiple

1 fights. The FBI witnessed him beating somebody with a baseball
2 bat. He has run nearly a million dollars through accounts in
3 the last three years, and multiple trips to different
4 locations.

5 He has been now indicted on a ten-year minimum
6 mandatory offense. And whether convicted or not of the
7 failures to appear, one time failing to appear, that might be
8 something I would look at. Four is not a coincidence that he
9 has been charged four times.

10 So I don't find the evidence that he could go live
11 with his brother and be on electronic monitoring comes close to
12 conditions that would satisfy the statute and make him either
13 no longer a danger to the community or a risk of flight. I
14 think he is both. And that there are no conditions.

15 So your motion for conditions of release is denied.

16 MR. MILLER: All right. Your Honor, there was
17 another issue that we were going to address today that came up
18 at the arraignment, and I advised the Government of this
19 yesterday.

20 We were going to let the Court know whether or not he
21 was able to retain me. And I found yesterday that they can't
22 afford to get me in the case. And I let the Government know.

23 And I told -- reminded Ms. Cuellar that I would be
24 advising the Court about that today. So he is going to need to
25 have some counsel appointed to represent him. And he and I

1 have discussed that, but I promised you that I would let you
2 know today. And I am now doing that.

3 THE COURT: All right. I had forgotten that. Thank
4 you for doing that. All right.

5 MS. CUELLAR: Your Honor, I prepared a conflicts list
6 for the Court.

7 THE COURT: That is very helpful.

8 All right, Mr. Huynh, we'll appoint counsel for you
9 and they will be in touch shortly, sir.

10 All right. Anything else this morning?

11 MS. CUELLAR: No, Your Honor.

12 MR. MILLER: No, Your Honor. And I take it I'm
13 relieved of my --

14 THE COURT: You are, you are relieved.

15 MR. MILLER: Thank you, Your Honor.

16 THE COURT: Thank you, sir.

17 MS. CUELLAR: Thank you, Your Honor.

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HEARING CONCLUDED

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21

22 I certify that the foregoing is a true and
23 accurate transcription of my stenographic notes.

24

25 /s/ Norman B. Linnell
Norman B. Linnell, RPR, CM, VCE, FCRR